



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

May 23, 2003

Mr. Jesús Toscano, Jr.
Administrative Assistant City Attorney
City of Dallas
1500 Marilla
Dallas, Texas 75201

OR2003-3501

Dear Mr. Toscano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 182094.

The City of Dallas (the "city") received a request for "copies of records for PD 181 and . . . for PD 607[,]" and copies of a particular legal opinion. You state that the city will release most of the requested information to the requestor. You claim, however, that the requested legal opinion is excepted from disclosure under section 552.107 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You state that the city has previously sought a decision from this office with respect to the requested legal opinion. In Open Records Letter No. 2003-2411 (2003), we concluded that the city may withhold the requested legal opinion under section 552.107 of the Government Code. As the four criteria for a "previous determination" established by this office in Open Records Decision No. 673 (2001) have been met, the city may withhold the requested legal opinion in accordance with Open Records Letter No. 2003-2411 (2003).¹ See Gov't Code § 552.301(f); Open Records Decision No. 673 (2001).

¹We note that upon request by an individual member of the legislature for public information where the requesting member states that the public information is requested for legislative purposes, a governmental body must provide the requesting member with the requested public information, including confidential information. See Gov't Code § 552.008(b); see also Open Records Decision No. 163 (1977) (a governmental body may not use the act's discretionary exceptions to withhold information from a legislator who seeks the information for legislative purposes).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Karen Rabon". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Karen Rabon
Assistant Attorney General
Open Records Division

KR/sdk

Ref: ID# 182094

Enc: Submitted documents

c: Ms. Eli Davis
Office of Representative Jesse W. Jones
7125 Marvin D. Love Freeway, Suite 325
Dallas, Texas 75237
(w/o enclosures)